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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/511,168

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Xinguo Wei

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EXAMINER

HOM, SHICK C

ART UNIT

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2416

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/511,168	<b>Applicant(s)</b> WEI, XINGUO	
	<b>Examiner</b> SHICK C. HOM	<b>Art Unit</b> 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Arguments***

1. Applicant's arguments filed 9/19/08 have been fully considered but they are not persuasive.

In page 8 of the remarks, applicant argued that Mitchell merely disclose a method for providing a graphical user interface and does not disclose or suggest a system or method of managing network elements as claimed is not persuasive because Mitchell in paragraph 0001, the field of the invention, clearly recite that the graphical user interface is use to efficiently manage relationships between objects having hierarchical relationships with one another as in computer network management application.

In response to applicant's argument in page 9 of the remarks that the examiner's conclusion of obviousness to provide the step of summarizing the condition of network element with an icon including textual annotation; and creating supervisor identities, establishing a set of rules for each supervisor identity; whereby rules being responsive to conditions selected from a group consisting of power source status, software corruption, hardware failure, environmental factors, and intrusion into the network elements as taught by Weinberg et al.

Art Unit: 2416

to the invention of Mitchell; and representing each network element in a geographical area at a first level in the geographical hierarchy includes entering a latitude and a longitude of the network element upon installation into the network as taught by Henderson et al. to the invention of Mitchell are based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-13 and 15-18 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1)

Art Unit: 2416

be tied to another statutory category (such as a particular apparatus), or (2) transform underlying subject matter (such as an article or material) to a different state or thing (Reference the May 15, 2008 memorandum issued by Deputy Commissioner for Patent Examining Policy, John J. Love, titled "Clarification of 'Processes' under 35 U.S.C. 101"). The instant claims neither transform underlying subject matter nor positively tie to another statutory category that accomplishes the claimed method steps, and therefore do not qualify as a statutory process.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-9, 15-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Mitchell et al. (2002/0113816).

Mitchell et al. disclose a method of managing network elements in a communications network comprising:

establishing a hierarchy of geographical areas in the communication network, where an area at a higher level of the hierarchy includes a plurality of areas at a lower level of the hierarchy;

representing each network element in a geographical area at a first level in the geographical hierarchy; and

summarizing the representation of network elements at a second level in the geographical hierarchy, higher than the first level of the geographical hierarchy (the abstract which recite providing a method and apparatus for presenting hierarchical data to a user via a graphical user interface; whereby hierarchical data is represented by nodes, beginning with one or more top nodes and extending into lower hierarchical levels by the display of child nodes, child's child nodes, and so forth and navigation through the hierarchical data is provided by allowing the user to select any visible node, at which point a zoom-in or zoom-out view to the selected node as a centrally located node on the interface is performed; child nodes at lower hierarchical levels that were not visible before selection are then made visible up to a predetermined number of levels within the hierarchy and a map is provided on the

Art Unit: 2416

interface which allows a user to graphically comprehend the present location of all nodes displayed on the interface in relation to their position within the overall hierarchy; wherein as applied to network management, the interface allows errors in low level devices within a network to be visually propagated up to the upper levels of the hierarchy, for display to a user viewing only the top levels and paragraph 0006 which recite the top level network interconnecting many smaller regional networks associated with specific buildings, cities, or geographical areas, whereby each of which represents a second level in the network hierarchy; each regional network interconnecting specific purpose departmental networks representing a third level in the network hierarchy; each departmental network including many individual subnetworks of computers, terminals, printers, file and web servers, and so forth to form the fourth level of the hierarchy, and so forth; and each computer and data communications device may then be considered on an individual basis as the fifth level in the hierarchy and may include various internal devices or peripherals which form a sixth hierarchical level clearly anticipate establishing the hierarchy of geographical area in the communication network as in claims 1-2, 15, 18-19); further

Mitchell et al. disclose a method of determining the failure of a network element in a communications network comprising:

detecting a failure of one or more network elements;

sending an alarm to the higher level in the geographical hierarchy summarizing the failure of the one or more network elements; and

in response to the alarm, identifying and locating failed network elements at a lower level of the geographical hierarchy; including

representing at least one network element as an icon; establishing a set of rules defining the meaning of the icon whereby the icon varies with respect to the status of the network element; and the use of coloration of the icon (paragraphs 0063-0064 recite upon detecting that the file server suddenly loses access to one of its disks, the server signal this failure condition via an exception to the remotely located network management application on the host; and upon receipt of this error condition, the network management software application alter the color of the node which represents the failed disk, as well as the color of node which represents the file server whereby the color alteration indicates that there is a problem with file server; whereby the network manager viewing



Art Unit: 2416

the top level of the network at the time the error occurred, is configured to propagate the error condition up to the top level of the hierarchy by changing all data links leading to the lower level node to indicate an error condition; wherein the data links are highlighted or begin to flash on and off so that when the network administrator notices a data link that begins to flash to indicate an error, the network administrator can "drill down" into the hierarchy via the aforementioned zoom-in node selection process to reach that view which represents the device with error can be indicated in red and the network manager can then directly select this node, which will cause that node to be the centrally located node on display and then analyze the data displayed within the node on the GUI to determine the nature of the error with disk to either disable the faulted disk or to hot swap in a new disk clearly anticipate the method of determining the failure of a network element as in claims 3-4, 15-18, and representing at least one network element as an icon; rules defining the icon; whereby the icon varies with respect to the status of the network element; and the use of coloration of the icon as in claims 5-9).

***Claim Rejections - 35 USC § 103***

Art Unit: 2416

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 10, 12-14, and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell et al. (2002/0113816) in view of Weinberg et al. (6,144,962).

For claims 10, 12-14, and 20-21, Mitchell et al. disclose the system and method described in paragraph 5 of this office action. Mitchell et al. disclose all the subject matter of the claimed invention with the exception of the step of summarizing the representation of network elements including use of textual annotation as recited in claim 10; wherein network management being supervised comprising creating supervisor identities; and in which the establishment of rule-sets includes establishing a set of rules for each supervisor identity; rules being responsive to conditions selected from a group consisting of power source status, software corruption, hardware failure,

Art Unit: 2416

environmental factors, and intrusion into the network elements as in claims 12-13. Although, Mitchell et al. and Weinberg et al. did not teach or suggest the use of a fixed wireless service network as recited in claims 14 and 20-21, the examiner take official notice that the use of fixed wireless service network is well known in the art.

Weinberg et al. from the same or similar fields of endeavor teach that it is known to provide the steps summarizing the representation of network elements by representing the condition of network element with a textual annotation and wherein network management being supervised comprising creating supervisor identities; and in which the establishment of rule-sets includes establishing a set of rules for each supervisor identity; rules being responsive to conditions selected from a group consisting of power source status, software corruption, hardware failure, environmental factors, and intrusion into the network elements (the abstract recites the step of building a graphically depicted map to allow user to visualize the overall architecture of the network connection including features to facilitate the task of identifying problems; col. 2 lines 27-48 recite using icons within the map to represent nodes on the display screen to display the hierarchical data structure; col. 9 lines 1-18 recite the use of textual annotation; col. 20 lines 20-33 recite

Art Unit: 2416

the task manager processor and col. 22 lines 31-46 which recite the use of an error code).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the step of summarizing the representation of network elements by representing the condition of network element with an icon including textual annotation; and wherein network management being supervised comprising creating supervisor identities; and in which the establishment of rule-sets includes establishing a set of rules for each supervisor identity; rules being responsive to conditions selected from a group consisting of power source status, software corruption, hardware failure, environmental factors, and intrusion into the network elements as taught by Weinberg et al. in the system and method of managing network elements and determining the failure of a network element in the communication network of Mictchell et al.

The step of summarizing the representation of network elements by representing the condition of network element with an icon including textual annotation; and wherein network management being supervised comprising creating supervisor identities; and in which the establishment of rule-sets includes establishing a set of rules for each supervisor identity; rules being responsive to conditions selected from a group consisting

Art Unit: 2416

of power source status, software corruption, hardware failure, environmental factors, and intrusion into the network elements can be implemented by including the step of summarizing the representation of network elements by representing the condition of network element with an icon including textual annotation; and wherein network management being supervised comprising creating supervisor identities; and in which the establishment of rule-sets includes establishing a set of rules for each supervisor identity; rules being responsive to conditions selected from a group consisting of power source status, software corruption, hardware failure, environmental factors, and intrusion into the network elements of Weinberg et al. to the system and method of Mitchell et al.

The motivation for providing the step of summarizing the representation of network elements by representing the condition of network element with an icon including textual annotation; and wherein network management being supervised comprising creating supervisor identities; and in which the establishment of rule-sets includes establishing a set of rules for each supervisor identity; rules being responsive to conditions selected from a group consisting of power source status, software corruption, hardware failure, environmental factors, and intrusion into the network elements as taught by Weinberg et

Art Unit: 2416

al. in the method and system of managing network and of determining the failure of a network element in the communication network of Mitchell et al. being that it provides the added desirable features of text annotation and establishing a set of rules for each supervisor identity to better allow user to distinguish the error at the network.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitchell et al. (2002/0113816) in view of Henderson et al. (5,726,979).

Regarding claim 11:

For claim 11, Mitchell et al. disclose the method described in paragraph 5 of this office action. Mitchell et al. disclose all the subject matter of the claimed invention with the exception of the step representing each network element in a geographical area at a first level in the geographical hierarchy includes entering a latitude and a longitude of the network element upon installation into the network as in claim 11.

Henderson et al. from the same or similar fields of endeavor teach that it is known to provide the step of wherein management of the network includes installation of network elements into the communications network and in which

Art Unit: 2416

representing each network element in a geographical area at a first level in the geographical hierarchy includes entering a latitude and a longitude of the network element upon installation into the network (see col. 7 lines 28-54 which recite the use of the nsLatLong class for representing the latitude and longitude data as in claim 11).

Thus, it would have been obvious to the person having ordinary skill in the art at the time the invention was made to provide the step of wherein management of the network includes installation of network elements into the communications network and in which representing each network element in a geographical area at a first level in the geographical hierarchy includes entering a latitude and a longitude of the network element upon installation into the network as taught by Henderson et al. in the communications network of Mitchell et al.

The step of wherein management of the network includes installation of network elements into the communications network and in which representing each network element in a geographical area at a first level in the geographical hierarchy includes entering a latitude and a longitude of the network element upon installation into the network can be implemented by representing each network element in a geographical area at a first level in the geographical hierarchy includes entering a latitude and a

Art Unit: 2416

longitude of the network element upon installation into the network of Henderson et al. to the design of the network element of Mitchell et al.

The motivation for providing the step of representing each network element in a geographical area at a first level in the geographical hierarchy includes entering a latitude and a longitude of the network element upon installation into the network as taught by Henderson et al. in the communication network of Mitchell et al. being that it provides the added desirable feature of knowing the latitude and a longitude of the network element at the higher level of the geographical hierarchy.

### ***Conclusion***

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any



Art Unit: 2416

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHICK C. HOM whose telephone number is (571)272-3173. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pham Chi can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chi H Pham/  
Supervisory Patent  
Examiner, Art Unit 2416  
12/11/08

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